

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	
	:	
MATTHEW STEPHENS	:	NO. 19-224-1

MEMORANDUM

Bartle, J.

September 2, 2021

The court has before it the pro se motion of Matthew Stephens for compassionate release under 18 U.S.C. § 3582(c)(1)(A).

I

On March 28, 2019, defendant Matthew Stephens was arrested in connection with his participation in a conspiracy to traffic large amounts of methamphetamine with co-defendants Kevin Bailey and Alphonso Gallimore. Stephens had also been selling firearms, ammunition, and machine gun conversion devices designed to create fully automatic weapons without a license to do so.

From March 2018 to March 2019, unknown to Stephens and his co-conspirators, one of their buyers was a confidential government informant. Stephens and the co-defendants sold several kilograms of methamphetamine to the informant. Stephens separately profited from the sale of 44 machine gun conversion devices and 52 firearms. Many of the firearms had obliterated

serial numbers or were "homemade" without serial numbers or identifying markings for the purpose of evading law enforcement. The Government's investigation resulted in several audio and video recordings of the defendants' methamphetamine sales and of Stephens' firearm sales.

On November 27, 2019, this court accepted the guilty plea of Stephens to seven counts of a 26-count grand jury indictment against him and his co-conspirators. Stephens pleaded guilty to: (Count 1) conspiracy to distribute 500 grams of more of methamphetamine in violation of 21 U.S.C. § 846, 841(a)(1) and (b)(1)(A); (Count 20) possession of a machine gun in violation of 18 U.S.C. § 922(o)(1); (Count 21) felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1); (Count 22) distribution of 500 grams or more of methamphetamine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A); (Count 23) distribution of 500 grams or more of methamphetamine within 1,000 feet of a public school in violation of 21 U.S.C. § 860(a); (Count 24) maintaining a drug house in violation of 21 U.S.C. § 856(a)(2); and (Count 25) dealing in firearms without a license in violation of 18 U.S.C. § 922(a)(1)(A).

Stephens already had a violent criminal history. Most notable, he had been convicted of assault in Florida for shooting a woman in the leg. On December 30, 2020, this court sentenced Stephens to a 151-month term of imprisonment followed

by 5 years of supervised release. Stephens is currently serving his sentence at the Federal Correctional Institution in Fort Dix, New Jersey ("FCI Fort Dix"). Accounting for four months of credit for good time, he has served approximately 33 months of his 151-month sentence. Stephens is 53 years old.

On April 5, 2021, Stephens submitted a request for compassionate release to the warden of FCI Fort Dix under 18 U.S.C. § 3582(c)(1)(A) on the ground that he suffers from gastroesophageal reflux disease ("GERD"), sciatica (herniated and bulged discs in lumbar), high blood pressure, and extreme and severe pain. Stephens stated his medical condition requires the use of adult diapers. The warden denied the request on June 10, 2021.<sup>1</sup>

Stephens filed the pending pro se request for compassionate release in this court on July 29, 2021. He seeks compassionate release on the ground that his condition constitutes an extraordinary and compelling reason for his release in light of the coronavirus pandemic. Specifically, he states:

I am a 53-year-old, overweight (BMI > 25), ex-smoker of 45 years who suffers from osteoarthritis, chronic back pain, sciatica, gastroesophageal reflux disease, rheumatoid arthritis, two herniated discs, as well as a panoply of mental and emotional health

---

1. The Government does not dispute that Stephens exhausted the administrative requirements set forth in § 3582(c)(1)(A).

issues, including post-traumatic stress disorder (PTSD), persistent depressive disorder (dysthymia), generalized anxiety disorder, severe alcohol and drug use disorder, and other specified personality disorders with paranoid and anti-social features. My physical issues require the use of medications which lower my immune system. My medical conditions place me in a vulnerable, at-risk population where I to contract Covid-19. These serious, CDC recognized conditions, [sic] my inability to obtain proper medical care, the out-of-control outbreak of the Coronavirus at FCI Fort Dix, and my demonstrated active growth toward rehabilitation, provide an extraordinary and compelling basis for a sentence reduction.

Stephens has been inoculated against COVID-19. He received the first and second doses of Pfizer's COVID-19 vaccine on March 24, 2021 and April 12, 2021 respectively.

## II

Section 3582(c)(1)(A), as amended by Section 603(b) of the First Step Act, Pub. L. No. 115-391, 132 Stat. 5239 (Dec. 21, 2018) provides in relevant part:

**(c) Modification of an imposed term of imprisonment.**--The court may not modify a term of imprisonment once it has been imposed except that--

(1) in any case--

(A) the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to

bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction . . .

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission . . .

(emphasis added). At the direction of Congress, the Sentencing Commission identified what are to be considered "extraordinary and compelling reasons" for compassionate release. 28 U.S.C. § 994(t). It issued a policy statement which provides that a court may reduce a term of imprisonment if, after considering applicable factors set forth in 18 U.S.C. § 3553(a), the court determines that: (1) "extraordinary and compelling reasons warrant the reduction"; (2) "the defendant is not a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g)"; (3) and "the reduction is consistent with this policy statement." USSG § 1B1.13. The Commission specifically identified "extraordinary and compelling" reasons

in Application Note 1 to USSG § 1B1.13 which provides in relevant part:

**1. Extraordinary and Compelling Reasons.--**

Provided the defendant [is not a danger to the safety of any other person or to the community under 18 U.S.C. § 3142(g)], extraordinary and compelling reasons exist under any of the circumstances set forth below:

**(A) Medical Condition of the Defendant.--**

(i) The defendant is suffering from a terminal illness. . . . (ii) (I) suffering from a serious physical or medical condition, (II) suffering from a serious functional or cognitive impairment, or (III) experiencing deteriorating physical or mental health because of the aging process

that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

(emphasis added). Our Court of Appeals recently held in United States v. Andrews that a district court is not bound by the Commission's policy statement in determining what is an extraordinary and compelling reason. 2021 WL 3852617, \_\_ F. 4th \_\_\_, at \*3 (3d Cir. 2021). However, the court may look to the policy statement as a guide, even if it is not ultimately binding. Id. at \*4.

The court may reduce the term of imprisonment under § 3582(c)(1)(A) only after it considers the factors set forth in § 3553(a) to the extent that they are applicable. These factors include: "the nature and circumstances of the offense and the

history and characteristics of the defendant” and “the need for the sentence imposed to protect the public from further crimes of the defendant.”

A defendant has the burden to show his or her circumstances warrant compassionate release. See, e.g., United States v. Neal, 2020 WL 5993290, at \*4 (E.D. Pa. Oct. 9, 2020); United States v. Adeyemi, 2020 WL 3642478, at \*16 (E.D. Pa. July 6, 2020).

### III

As noted above, Stephens seeks compassionate release based on his risk of illness or death from COVID-19 in light of his various medical conditions. The Government opposes Stephens’ early release on the ground that his medical condition does not amount to an extraordinary and compelling reason for his release because he is vaccinated.

The court is, of course, mindful of the devastating worldwide pandemic and the special dangers the highly contagious coronavirus poses for Stephens and all others in prison where social distancing is not always possible. The court is also sympathetic to Stephens’ medical condition. However, “the existence of some health risk to every federal prisoner as the result of this global pandemic does not, without more, provide the sole basis for granting release to each and every prisoner within our Circuit.” United States v. Roeder, 807 Fed. App’x.

157, 161 n. 16 (3d Cir. 2020). Nor does, “an outbreak at the defendant’s correctional institution, standing alone, . . . satisfy the extraordinary and compelling reasons requirement.” United States v. Gonzalez, 2021 WL 1088258, at \*3 (E.D. Pa. Mar. 22, 2021).

The Government argues that being slightly overweight is the only condition contained in Stephens’ medical record over the past year that the Centers for Disease Control and Prevention have determined increases the risk of severe illness from COVID-19. The Government contends that in light of Stephens’ receipt of the COVID-19 vaccine, his weight does not constitute an extraordinary and compelling reason for his early release.

Even assuming Stephens’ medical conditions collectively constitute an extraordinary and compelling reason, his release after serving only 33 months of a 151-month sentence cannot be justified in light of the nature and circumstances of his crimes. See 18 U.S.C. § 3553(a). Moreover, his early release would not serve to protect those members of the public who may fall victim to his crimes. Id. Stephens’ sale of nearly one-hundred machine gun conversion devises and firearms, often anonymized specifically to evade law enforcement, demonstrates his willingness to contribute to the significant gun violence and high number of shooting-related deaths in the



Philadelphia community. Stephens' access to and sale of firearms occurred during his and his co-defendants' substantial participation in the Philadelphia methamphetamine trade. Further, Stephens' criminal history demonstrates not only an inclination to sell illegal firearms, but to use them.

Accordingly, the court will deny the motion of defendant Matthew Stephens for compassionate release under 18 U.S.C. § 3582(c)(1)(A).